

# **EXHIBIT D**

**From:** Voelker, Glenn (OS/ASPA) <[Glenn.Voelker@hhs.gov](mailto:Glenn.Voelker@hhs.gov)>

**Sent:** Monday, September 24, 2018 5:53 AM

**To:** Krell, Maggy <[Maggy.Krell@ppacca.org](mailto:Maggy.Krell@ppacca.org)>

**Subject:** FOIA Request 18-0305 Clarification needed

Good Morning Ms. Krell,

Clarification is need for your request that you submitted, please see attached letter.

Thank you

Glenn Voelker

PHS FOIA



**PHS Case No. 2018-0305-FOIA**

September 24, 2018

**Sent via email:** *Maggy.krell@ppacc.org*

Ms. Maggy Krell  
Chief Legal Counsel  
California Planned Parenthood Education Fund  
555 Capitol Mall, Suite 510  
Sacramento, CA 95814

Dear Ms. Krell:

This letter is in response to your August 1, 2018, Freedom of Information Act (FOIA) request. Specifically, you requested the following:

**Records related to the process for receiving, tracking, grouping and determining whether to publicly display comments submitted in response to RIN: 0937-ZA00:**

1. A list of all comments received identified by name of individual, organization, or agency submitting the comment, the date the comment was received, whether it was displayed publicly on regulations.gov, and if so the date the comments were publicly displayed on regulations.gov.
2. The total amount of individual comments received between June 1, 2018 and July 31, 2018, and how many of the individual comments were duplicate/near duplicate examples of a mass-mail campaign.
3. All communications, including e-mails, text messages, phone logs, messages conveyed through internal messaging software and meetings (including names of attendees and calendar description) discussing the process for tallying, grouping and tracking of comments between May 1, 2018 and August 1, 2018. Included in this request is all internal communications between and amongst HHS employees and executive staff, management, outside consultants or members of the public.
4. Any information, memorandum, or instruction describing the method by which comments would be grouped for purposes of consolidation.
5. Any communications, including e-mails, text messages, and phone logs, messages conveyed through internal messaging software and meetings (including names of attendees and calendar descriptions) relating to any decision made as to which comments would or would not be available publicly to view on Regulations.gov. As of July 31, 2018, approximately 26% of comments submitted on Regulations.gov were not publicly displayed on Regulations.gov. Please provide all documentation and communications related to any decision as to whether a comment was made public.

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**6.** All communications, including e-mails, text messages, messages conveyed through internal messaging software and phone logs, and meetings (including names of attendees) discussing Solicitation #18-233-SOL-00600 between May 1, 2018 and August 1, 2018. Included in this request is all internal communications between and amongst HHS employees and executive staff, management, outside consultants or members of the public.

**7.** A list of all proposals received for Solicitation #18-233-SOL-00600, identified by name of individual, organization, or agency submitting the proposal and the date the proposal was received.

**Records related to the process of developing and drafting RIN: 0937-ZA00:**

**8.** All records related to HHS's conclusions regarding the impact of the Proposed Rule on patients.

**9.** The names and professional affiliation of all medical providers, including nurses and doctors, consulted in developing the Proposed Rule.

**10.** All records related to communications between employees of HHS with any other person or group between May 1, 2017 to June 30, 2018 concerning the creating or drafting of the Proposed Rule. This includes meeting requests, invitations, phone logs, text messages, emails, messages conveyed through internal messaging software, and meeting notes.

**11.** A list of all HHS employees involved in the drafting, review, or discussion about the proposed rule.

**12.** Any data, documents, evidence or information relied on by HHS in considering "the effectiveness of its policies enforcing statutory mandates" as referenced in the Proposed Rule.

**13.** Any data, documents, evidence or information relied on by HHS in its proposal to "amend the definition of 'low income family' to include women who are unable to obtain certain family planning services under employer-sponsored health insurance policies due to their employers' religious beliefs or moral convictions" including any and all communications related to this amendment.

**14.** Any data, documents, evidence or information relied on by HHS in its proposal to include non FDA approved methods within "effective family planning services" eligible for funding, including any and all communications.

**15.** Any data, documents, evidence or information relied on by HHS in creating and proposing the Regulatory Impact Statement of the Proposed Rule.

**16.** All studies, data, evidence or other materials not cited in the Proposed Rule, that HHS considered in proposing it.

This letter is to obtain clarification regarding the subject matter of your FOIA request. We are unable to ascertain from your request which particular agency records you wish to obtain.

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The FOIA allows the public to request access to "reasonably described" existing agency records (subject to any applicable FOIA exemptions to disclosure). This means you must describe the category of records you are seeking or the actual document(s), and provide sufficient details to permit a search with reasonable effort, utilizing existing indices and search tools. Unfortunately, you have not described the records with enough specificity to allow us to continue with the processing of your request.

HHS is comprised of 11 agencies and over 75,000 employees, including hundreds of component/program offices. You are asking for all emails for HHS employees and you did not provide any search terms or date range.

Specifically, in items 3, 5, 6, and 10, above, you are asking for emails from HHS employees. However, as written, your request is overly broad. In order for us to conduct a reasonable search, we need the following information:

- Specific search terms;
- Names of specific HHS employees;
- Domain names of email addresses you are seeking; and,
- Beginning and ending dates of search timeframes for each item.

At this time, we have placed your request in "tolled" status. Therefore, please clarify and describe the records you are seeking, by sending an email to Glenn Voelker, of my staff, at [glenn.voelker@hhs.gov](mailto:glenn.voelker@hhs.gov) or calling him at 202-260-6933.

After you further advise us what records you are seeking, we can begin to process your FOIA request.

If you have not contacted our office within 20 business days from the date of this letter, your request will be administratively closed. Therefore, no action on your part is needed, if you no longer have a need for the records.

Sincerely yours,



Garfield Daley  
Acting PHS FOIA Director